

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Final Office Action dated September 18, 2008. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-16 are pending in the Application. Claims 13-16 are added by this amendment.

In the Final Office Action, claim 2 is objected to for an informality. In response, claim 2 is amended to remove the informality noted by the Examiner. Accordingly, withdrawal of the objection to claim 2 is respectfully requested.

Claim 4 is rejected under 35 U.S.C. §112, second paragraph as allegedly being indefinite due to a lack of antecedence basis for the terms "the start time" and "the duration". Claim 4 is amended herein to cure the noted problems. Accordingly, it is respectfully submitted that claim 4 is now in proper form and it is respectfully requested that this rejection under 35 U.S.C. §112, second paragraph, be withdrawn.

In the Final Office Action, claims 1-3, 6 and 8-11 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 7,209,571 to Davis ("Davis"). Claim 4 is rejected under

35 U.S.C. §103(a) as allegedly unpatentable over Davis. Claims 5-7 and 12 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Davis in view of U.S. Patent No. 6,505,160 to Levy ("Levy"). It is respectfully submitted that claims 1-16 are patentable over Davis alone and in view of levy for at least the following reasons.

Davis shows a system for authenticating metadata stored within a media file.

It is respectfully submitted that the method of claim 1 is not anticipated or made obvious by the teachings of Davis. For example, Davis does not disclose or suggest, a method that amongst other patentable elements, comprises (illustrative emphasis added) "processing an audio signal comprising acts of receiving an audio signal, extracting musical features from the audio signal, and translating the extracted musical features into metadata, the metadata comprising an instruction set of a markup language for controlling an ambient environment" as recited in claim 1, and as similarly recited in claim 9. Levy is introduced for allegedly showing elements of the dependent claims and as such, does nothing to cure the deficiencies in Davis.

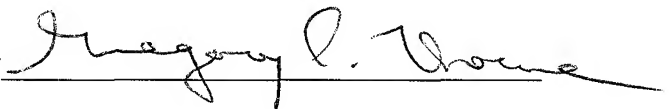
Based on the foregoing, the Applicants respectfully submit

that independent claims 1 and 9 are patentable over Davis alone and in view of Levy and notice to this effect is earnestly solicited. Claims 2-8, 10-16 respectively depend from one of claims 1 and 9 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

Gregory L. Thorne, Reg. 39,398
Attorney for Applicant(s)
November 18, 2008

THORNE & HALAJIAN, LLP

Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101